

ENTERED

June 09, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

APRIL M. FLORES,

§

Plaintiff,

§

VS.

§

CIVIL ACTION NO. 1:20-CV-169

THE CITY OF SAN BENITO, TEXAS, *et al.*,

§

Defendants.

§

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff April M. Flores, as mother of Ricardo Trevino III and as the representative of his estate, filed this lawsuit after police officers fatally shot Trevino following a vehicular chase. Flores sued numerous law enforcement officers for unlawful seizure and use of excessive force, and the City of San Benito and Cameron County for failure to train and supervise the officers.¹

San Benito police officers Victor Espitia, Jose Santos, Oscar Lara, and Manuel Alvarez filed a partial motion to dismiss. (Doc. 11) All other defendants seek dismissal of all causes of action against them. (San Benito Motion, Doc. 10; Cameron County and Constables Motion, Doc. 29)

The Magistrate Judge issued a Report and Recommendation, recommending that all claims against the City of San Benito and Cameron County be dismissed, and that some, but not all of the causes of action against the law enforcement officers be dismissed. (Doc. 41) No party filed objections. The Court finds no plain error in the Report and Recommendation.

As a result, the Court **ADOPTS** the Report and Recommendation (Doc. 41).

It is **ORDERED** that Defendant City of San Benito, Texas' Rule 12 Motion to Dismiss (Doc. 10) is **GRANTED**; and

ORDERED that all of Plaintiff April M. Flores's claims against the City of San Benito are **DISMISSED WITH PREJUDICE**.

It is also **ORDERED** that Defendants Victor Espitia, Jose Santos, Oscar Lara, and Manuel

¹ Though the Complaint refers to a cause of action for unlawful seizure, the Court agrees the allegations should be construed as a false arrest claim. (Report and Recommendation, Doc. 41, 11)

Alvarez's Motion for Partial Dismissal (Doc. 11) is **GRANTED IN PART AND DENIED IN PART;**

ORDERED that Plaintiff April M. Flores's claims against Victor Espitia, Jose Santos, Oscar Lara, and Manuel Alvarez for unlawful seizure/false arrest, for torts under the Texas Constitution, and for punitive damages under Texas law are **DISMISSED WITH PREJUDICE**; and

ORDERED that Defendants Victor Espitia, Jose Santos, Oscar Lara, and Manuel Alvarez's Motion for Partial Dismissal (Doc. 11) is **DENIED** as to Plaintiff April M. Flores's claims for punitive damages under Section 1983.

It is also **ORDERED** that Defendants Cameron County, Texas, Eddie Solis, and Jose Angel Villarreal and Carlos Cordova's 12(B)(1) & 12(B)(6) Motion to Dismiss Plaintiff's Original Complaint (Doc. 29) is **GRANTED IN PART AND DENIED IN PART**;

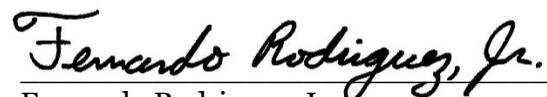
ORDERED that all of Plaintiff April M. Flores's causes of action against Cameron County are **DISMISSED WITH PREJUDICE**;

ORDERED that Plaintiff April M. Flores's cause of action for unlawful seizure/false arrest against Eddie Solis, Jose Angel Villarreal, and Carlos Cordova is **DISMISSED WITH PREJUDICE**; and

ORDERED that Plaintiff April M. Flores's causes of action against Eddie Solis for excessive force are **DISMISSED WITH PREJUDICE**.

All other relief requested in Defendants Cameron County, Texas, Eddie Solis, Jose Angel Villarreal, and Carlos Cordova's 12(B)(1) & 12(B)(6) Motion to Dismiss Plaintiff's Original Complaint (Doc. 29) not expressly granted in this Order is **DENIED**.

Signed on June 9, 2021.


Fernando Rodriguez, Jr.
United States District Judge